

## Office Action Summary

Application No.

10/538,671

Applicant(s)

HAUG ET AL.

Examiner

KAREN YOUNKINS

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,7-9,11 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7-9 and 11 is/are rejected.
- 7) ☐ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                           |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to the amendment and request for continued examination dated 4/1/2010. Claims 1, 7-9, 11, and 14 are currently pending in the application.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,091,998 to Peterson.

4. Peterson discloses a wall mounting comprising a shower head having a housing 22/20 and a grip 62. A holder 10 acts by means of an interference fit as claimed and is arranged between tines of a fork 72, 74. The holder engages on the housing via a pair of jaws 82/84 gripping the shower head 22 at an outer perimeter between two diametrically opposed locations on the housing, see figure 1. The shower head is operational while the housing is engaged, and remains operational when withdrawn from the mounting and held by a user by the grip.

5. The initial statement of intended use, claim 1 lines 1-2, and all other functional implications related thereto have been fully considered but do not appear to impose any patentably distinguishing structure over that disclosed by Peterson.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7-9, are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of USPN 4,072,397 to Ross.

8. As previously discussed in pp-4 above, further Peterson fails to show the jaws being drawn toward one another when the shower head is in place, the jaws joined to the holder by a component that is under tension.

Ross teaches alternate clamp means known in the art of shower heads and shower head housings having jaws that are drawn together by a component that is under tension, See column 4 lines 30-34.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the wall mounting of Peterson to include jaws that are drawn together and held together under tension as taught by Ross to more securely clamp the shower head housing to the holder. It is noted that as modified, the tensioning component is 'configured such that it contacts the housing of the showerhead over an extended area' as it contacts the housing concentrically. It is further noted that the showerhead remains operational to emit water while engaged in the holder and when withdrawn from the mounting as functionally recited.

***Allowable Subject Matter***

9. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: The limitation of the housing of the shower head being disk-shaped as set forth in claim 14 in combination with the other elements of the claim was not found.

***Response to Arguments***

11. Applicant's arguments, see the remarks, filed 4/1/2010, with respect to the previous rejection under 35 U.S.C. 112 second paragraph of claim 14 have been fully considered and are persuasive. The rejection of claim 14 has been withdrawn.

12. It is noted that the applicant's amendments have overcome the prior rejection under 35 U.S.C. 102 to Hilfiker, as discussed on pages 5-6 of the applicant's arguments.

13. Applicant's arguments filed 4/1/2010 with respect to the rejection of claims 1 and 11 under 35 U.S.C. 102(b) as being anticipated by Peterson have been fully considered but they are not persuasive.

14. On page 6 the applicant has asserted the cradle engages a hand grip, not by an interference fit between a shower head housing and a wall mounting on which the shower head can be received as claimed. The examiner respectfully disagrees. As discussed in the rejection above, the shower head housing is taught by Peterson 22/20. The jaws clearly engage the housing at the upper portion of 22. The grip is taught by

Art Unit: 3751

62, which forms a grip to the extent claimed. A user is perfectly capable of using 62 to grip the shower head structure of Peterson and to remove or to engage the grips. The applicant further asserts that the holder of Peterson is not attachable to a wall as claimed, however the holder of Peterson is attached to a wall in figure 1.

15. On page 7 the applicant has asserted that the prior art does not show a realization of expectation of benefit with respect to the applicant's idea of providing a wall mounting on which a hand shower head can be fixed so the spray emits from the wall mounting. This argument is not commensurate with the scope of the claims.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 4,131,232 teaches another clamp form using tension generally known in the art of shower heads.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREN YOUNKINS whose telephone number is (571)270-7417. The examiner can normally be reached on Monday through Friday 7:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571)272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. Y./

Examiner, Art Unit 3751

/Gregory L. Huson/

Supervisory Patent Examiner, Art Unit 3751